IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELATE CIVIL JURISDICTION

WRIT PETITION NO.1083 OF 1998

Keshav Gorakh Bagul ..Petitioner

Vs.

State of Maharashtra & Ors. ..Respondents

Mr.R.K.Mendadkar, Adv. for Petitioner

Mr.C.R.Sonawane, A.G.P. for Respondent nos.1 & 2

Mrs. A.R.S. Baxi, Adv. for Respondent no.3.

CORAM: F.I. REBELLO &
S.P. KUKDAY, JJ.
DATE: 31ST JANUARY, 2005.

P.C.

1. Petitioner was selected against the post reserved for the Scheduled Tribes in the office of Respondent no.3. The petitioner's caste certificate was sent for scrutiny to Respondent no.2. Respondent no.2 rejected the caste claim of the petitioner herein. Hence the petition came to be filed. The appointment of the petitioner was made subject to the final order in the petition. The grievance made by the petitioner is that the Committee constituted to verify the claims could only consider those cases in terms of the Notification dated 23rd January, 1985. It is his contention that the Respondent no.3 is an Authority created under an Act and that being the case his claim would not fall within the terms of

Notification dated 23rd January, 1985. It is also submitted that the Respondent no.3 is also not a Department/Office of Respondent No.1. It is pointed out that it is held that the Scrutiny Committee had no authority to verify the caste claim, in the case of Shri Sudhakar Shankar Gawali Vs. State of Maharashtra decided on 17th October, 1997, in Writ Petition No.4406 of 1994 the learned Division Bench of this Court after considering the said G.R. dated 23rd January, 1985 was pleased to hold that, that would not apply to the employee of State Road Transport Corporation. Another Division Bench in Bhaskar Sitaram Koli Vs. Executive Magistrate, Thane & Ors. decided on 1st December, 2003 in Writ Petition No.1414 of 1995 has held that the Respondent no.2 could not scrutinise the caste claim of employees of NABARD.

2. In the instant case as the petitioner is employee in the office of respondent no.3. The ratio of the earlier two judgments would have to be applied and will have to be held the respondent no.2 committee had no jurisdiction to verify the caste claim of the petitioner herein. In the light of that the following order:-

. Rule made absolute to the extent that order dated 25th July, 1997 is quashed and set aside.

. The matter is remanded to the of Committee for Scrutiny of Certificate, Verification of Tribe Claims, Maharashtra State, Adivasi Bhawan, Nashik for consideration of the petitioner’s caste. The enquiry to be completed within a period of **four months** from the date of appearance by the petitioner.

. Petitioner to appear before the Committee on 21st February, 2005.

. It is made clear that it will be open to the petitioner to file any additional documents that will he may choose to rely upon. possession.

. The appointment of the petitioner will be subject to the final order passed by the Committee and if it is adverse, that order will not be operative for **four weeks.**

. Rule made absolute.

(F.I.REBELLO,J.)

(S.P. KUKDAY,J.)